

Notice of Allowability

Application No.

10/035,215

Examiner

Wendy C. Haas

Applicant(s)

WOODS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/20/2005.
2. ☒ The allowed claim(s) is/are claims 1-3, 6, 8-10, 12-17 and 56-71.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413)
Paper No./Mail Date 1/24/06 and 2/3/06
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Elisa Lane on January 24 and February 3, 2006.

The application has been amended as follows:

- A. On page 3 of the response filed October 20, 2005, claim 9 has been amended as follows: the words "which contains" have been changed to read – wherein the LS medium comprises --.
- B. On page 5 of the response filed October 20, 2005, claim 17 has been amended as follows: the words "which contains" have been changed to read – wherein the MS medium comprises --.
- C. On page 5 of the response filed October 20, 2005, claim 56 has been amended as follows: in line 1, the words "the plants" have been changed to –plantlets--; in line 3, a period -- . – has been added at the end of the claim.
- D. On page 5 of the response filed October 20, 2005, claim 58 has been amended as follows: the word "plants" in line 2 has been changed to – plantlets --; the word "plants" in line 3 has been changed to –plantlets--.
- E. On page 5 of the response filed October 20, 2005, claim 59 has been amended as follows: Each instance of the word "plants" in line 2 has been changed to –plantlets--; the words "plants containing" have been deleted and are replaced by the recitation – plantlets, whereby the tops each comprise --.

AMB
2/16/06

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F. On page 5 of the response filed October 20, 2005, claim 60 has been amended as follows:
the recitation – from plantlets – has been inserted after “obtained”.

G. On page 6 of the response filed October 20, 2005, claim 61 has been amended as follows:
the word “treating” has been changed to –treated--.

H. On page 6 of the response filed October 20, 2005, claim 62 has been amended as follows:
in line 3, the words – the apparatus – have been added after the word “operating”.

I. On page 6 of the response filed October 20, 2005, claim 64 has been amended as follows:
In line 1, the recitation – the propagation of plants is conducted in – has been added after the word “wherein”, the words “for the” have been deleted; in line 2, the words “propagation of plants” have been changed to – which further --.

J. On page 6 of the response filed October 20, 2005, claim 65 has been amended as follows:
The following recitation has been added after “64,” – wherein the propagation of plants is conducted in the float bed apparatus and --.

K. On page 6 of the response filed October 20, 2005, claim 66 has been amended as follows:
The following recitation has been added after “64,” – wherein the propagation of plants is conducted in the float bed apparatus and --.

L. On page 6 of the response filed October 20, 2005, claim 67 has been amended as follows:
The following recitation has been added after “64,” – wherein the propagation of plants is conducted in the float bed apparatus and --; in line 3, the word “of” has been changed to – having--.

M. On page 7 of the response filed October 20, 2005, claim 68 has been amended as follows:

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The following recitation has been added after “64,” – wherein the propagation of plants is conducted in the float bed apparatus and --.

N. On page 7 of the response filed October 20, 2005, claim 69 has been amended as follows:

The following recitation has been added after “64,” – wherein the propagation of plants is conducted in the float bed apparatus and --.

O. On page 7 of the response filed October 20, 2005, claim 70 has been amended as follows:

Lines 4 and 5, the words “thereof containing” have been deleted and are replaced with – wherein the portion obtained contains--; lines 16 and 17, the words “proximate to the second position” have been deleted.

P. On page 7 of the response filed October 20, 2005, claim 71 has been amended as follows:

The words – for the propagation of *Arundo donax*, -- have been added after the number “70,”; in line 4, the word “method” has been changed to read – apparatus --.

REASONS FOR ALLOWANCE

The following is an examiner’s statement of reasons for allowance: the closest prior art documents representing the additional claim limitations are Koike (United States Patent Number 4,607,454) and Valstar (United States Patent Number 5,561,943. Koike does not teach or suggest the use of somatic embryos in the float bed apparatus taught, nor does he teach or suggest moving the float bed along another apparatus as the plants mature.

Valstar teaches an apparatus for moving plants, but does not teach or suggest using the apparatus in a hydroponic culture system. Additionally, Valstar’s apparatus is used to move

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plants to other locations after maturity; Valstar does not teach or suggest moving the plants as they mature so that they reach their destination at the time of maturity.

Neither of the reference teaches the propagation of *Arundo donax*, nor is there any motivation to thus propagate *Arundo donax* by placing plantlets obtained from either somatic embryogenesis or asexual propagation into a continuous float bed apparatus that moves the plants to a designated destination as they reach maturity. As such, the closest prior art references do not anticipate or make obvious the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Future Correspondence

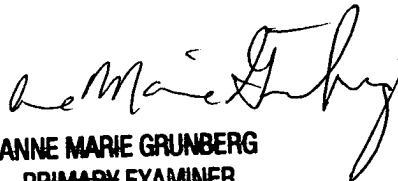
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy C. Haas whose telephone number is (571) 272-0976. The examiner can normally be reached on Monday, Tuesday and Thursday from 9:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W. C. Haas, J.D.
Patent Examiner, Art Unit 1661


ANNE MARIE GRUNBERG
SP PRIMARY EXAMINER